



**HEALTH CARE FINANCING ADMINISTRATION  
CENT ER FOR MEDICAID AND STATE OPERATIONS**

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Charles Wilhelm, Director  
Department of Health and Family Services  
Office of Strategic Finance  
1 West Wilson Street  
P.O. Box 7850  
Madison, Wisconsin 53707-7850

Dear Mr. Wilhelm:

I am pleased to inform you that the Health Care Financing Administration (HCFA) is approving Wisconsin's request for two managed care waivers which are part of the Family Care program: one for Milwaukee County (Milwaukee); the other for Fond du Lac, Kenosha, La Crosse, Portage, and Richland Counties (Multiple Counties), each authorized under sections 191 5(b)( 1), (2), and (4) of the Social Security Act (the Act). Although Family Care will be operated as a concurrent 191 5(b)/(c) waiver, these waiver approvals apply only to the 1915 (b) waiver portions of the Family Care program. These approvals provide for the waiver of sections 1902 (a)( 1), statewideness 1902(a)(4), choice of two Prepaid Health Plans (PHPs) or one PHP and a Managed Care Organization (MCO); 1902(a)(10)(B), comparability of services; 1902(a)(23), freedom of choice; and 1902 (a)(30) upper payment limit (Multiple Counties only) of the Act to provide long-term care and institutional services to eligible Medicaid recipients. Residents of the above counties (adults age 60 and over with chronic long-term care needs in Milwaukee; adults age 18 and over with chronic long-term care needs in the Multiple Counties) who choose to participate in a 1915(c) home and community based waiver will be enrolled in Family Care through the appropriate 1915(b) waiver. The two 1915(b) waivers will be effective for the 2-year period from January 1, 2002, through December 31, 2003.

The decision to approve these waivers is based on evidence submitted to HCFA showing that Family Care is consistent with the purposes of the Medicaid program. The waivers have met the applicable statutory and regulatory requirements for access to care and quality of

services, and will be cost effective in providing long-term care and institutional services to Wisconsin's Medicaid recipients.

Please note that waiver approval is contingent on the following terms and conditions:

1. HCFA is approving the following strategy for protecting against conflict of interest: the Care Management Organization (CMO) and Resource Center may be operated by the individual county, with the functional assessment of an individual's level of care performed by Resource Center staff, using the Wisconsin Long-Term Care Functional Screen. The state will appropriately monitor and enforce the objective application of the functional assessment tool. The state will independently contract for enrollment counseling with an entity independent of all counties, CMOs, Resource Centers, and service providers: If the state wishes to allow any county to deviate from this strategy, the state must submit an amendment to the appropriate 1915(b) waiver. Future editions of CMO and Resource Center marketing materials must indicate that both the CMO and Resource Center are county agencies.
2. The state must arrange for independent assessments of the 1915(b) waiver programs with respect to access to care, choice of individual providers, quality of services, and cost effectiveness. The independent assessments must be submitted to HCFA as part of the waiver renewal packages no later than 3 months prior to the expiration of the waivers.
3. HCFA has accepted Wisconsin's justification for initially implementing Family Care under non-competitive procurement. However, the state will adhere to the conditions below in the utilization of non-competitive procurement for the Family Care 1915(b) waivers:
  - A. The state has the credible ability to terminate the contract or to contract with alternate providers and/or management entities under competitive procurement in the event of:
    - 1) Repeated documented violations of contract provisions; or
    - 2) Repeated written substantiations of poor quality of care that have a significant adverse impact on beneficiary services, safety, or welfare.
  - B. The state has the ability to terminate the contract and take remedial measures for poor quality performance and for non-compliance related to administrative obligations. This includes providing access to out-of-network providers in the event of fraud, abuse, neglect, or improper treatment. (The ability to take remedial measures must exist even if state law mandates that the public system is legally responsible as the provider of last resort for delivering care for a specific set of services.)
  - C. There is significant choice and range of providers within the network for each type of service, such that the contractor is capable of providing care within a reasonable response time according to the beneficiary population's needs and preferences.

D. The contractor has the ability and necessary infrastructure to support reporting data for quality assessment and performance improvement purposes.

E. The state is able to provide a demonstration of continuity of care by the following:

- 1) The contract includes requirements to ensure the least amount of service disruption with existing providers, thereby supporting a greater continuity of care (e.g., as evidenced by the inclusion of a significant number of the providers who have traditionally provided care, contractor's transfer of records, transition plans etc.).
- 2) The contracts include safeguards to protect beneficiaries in the event of a planned or unanticipated departure (e.g., in the case of a private entity). These safeguards may include advance notice requirements, and monetary penalties in the event of a contractor's early departure from a state program. They also include incentives or other mechanisms (i.e., long term contracts) to overcome the high start-up costs incurred by a successor contractor in the event of a withdrawal of an existing contractor.

F. The contract includes requirements that facilitate the coordination and integration of health services and support needs of beneficiaries with other Medicaid managed care programs and non-Medicaid social support programs (e.g., as evidenced by required linkage agreements, operational protocols, etc.).

The state must send to the HCFA RO information demonstrating these provisions by November 1, 2001.

G. The state undertakes activities to promote consumer choice through the development of the private market, including steps to reduce barriers to competition and establish an environment that would foster a fair and competitive market. Consumer choice can be addressed on many levels, such as increased participation of private providers in the program and incentives (contractual or changes in state law) to attract private plans to enter the market.

H. The state undertakes activities to prepare public entities and providers to be more competitive, and to promote consumer choice at the provider level

The state must send to the HCFA RO information demonstrating these provisions by July 1, 2002.

4. The state will track the member months of those individuals relocating from or being diverted from institutions (nursing facilities and intermediate care facilities for the mentally retarded) to the community as a result of the Family Care program. Information concerning diversions/relocations will be reported to HCFA semi-annually, and will be used in retrospective adjustments to cost effectiveness calculations.

5. The state will track progress made in eliminating 1915(c) waiver waiting lists with the implementation of the Family Care program. Information concerning waiting list levels will be reported to HCFA semi-annually.
6. With waiver calculations for both 1915(b) waivers will utilize capitation rates that have been reduced by beneficiary liability for the cost of their care.
7. Prior to implementation, Wisconsin will submit revised without waiver calculations for both 1915(b) waivers utilizing costs that have been reduced by beneficiary liability for the cost of their care.
8. All payments to a PHP are included in the capitation rates. The amounts paid will remain with the PHP, and will not be returned to the State as an intergovernmental transfer.
9. The state will need to comply with all applicable provisions of the Social Security Act, as amended by the Balanced Budget Act of 1997.
10. The state must submit a renewal application for these waivers no later than 90 days prior to the expiration date of waivers. The renewal for both waivers will be due on October 1, 2003.

The approval of these waivers is subject to our receiving your written acceptance of this approval with the above terms and conditions by July 31, 2001.

I wish you success in the operation of this program for Medicaid beneficiaries in Wisconsin. If you have any questions regarding this waiver or the Balanced Budget Act of 1997, please contact Melissa Harris, project officer, at (410) 786-3397.

Sincerely,

/s/

Theresa A. Pratt

cc: Alan Freund, Chicago Regional Office  
Ronald Perkins, Chicago Regional Office